

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NEU PRODUCTIONS INC., JOHN ROBERT
RODERICK and PATRICK PARNELL)

)
Plaintiffs,)

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against)

)
EUREKA ENTERTAINMENT LLC. and
HOME BOX OFFICE, INC.)

)
Defendants.)
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Civ. Action No. _____

) Jury Trial Requested
)

COMPLAINT

Plaintiffs Neu Productions Inc., John Robert Roderick and Patrick Parnell,
(collectively “Plaintiffs” and individually “Neu” or “Neu Productions,” “Roderick” and
“Parnell”) by their attorney, Katherine Daniels LLC, for their complaint against
Defendants Eureka Entertainment LLC and Home Box Office, Inc. (hereafter collectively
“Defendants” and individually “Eureka” and “HBO”) alleges as follows:

NATURE OF THE CLAIMS

1. This action arises out of the Defendants’ misappropriation of copyrighted
footage owned by Roderick (the “Neu Footage”) in the television documentary series
Shaun White, The Last Run (the “Film” or “*The Last Run*”) currently available on the
streaming service MAX (formerly known as HBO MAX).

2. Roderick owns the copyrights in the Neu Footage and licenses it exclusively
through his production company Neu Productions. The copyrights were duly registered
as of the date of the infringement. Exhibit 1. Neither Roderick nor Neu Productions
authorized Defendants to use the Neu Footage for this purpose.

3. Celebrity host Patrick Parnell's name, voice and image are used in *The Last Run* without his permission.

4. The Defendant's actions have caused and continue to cause damage to Roderick's ability to exercise its exclusive rights under the Copyright Act and Parnell's exclusive right to control the commercial use of his name, voice and image.

5. Despite Plaintiffs' best efforts to reach a mutually acceptable arrangement concerning the use of the Neu Footage in *The Last Run*, the parties have been unable to reach a settlement. Therefore, Plaintiffs ask the Court to provide relief from the Defendants' ongoing infringement.

JURISDICTION AND VENUE

6. This action asserts claims arising under the Copyright Act, 17 U.S.C. §101 et seq., and California state law. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338 and 1367(a).

7. This Court has personal jurisdiction over the Defendants and venue in this District is proper under 28 U.S.C. § 1391(b) and 28 U.S.C. § 1400(a) in that the Defendants regularly conduct business in this District and acts of infringement have occurred in this District.

PARTIES

8. Plaintiff Neu Productions Inc. is a corporation organized under the laws of the State of Colorado with a principal place of business at 251 Beaver Brook Canyon Road, Evergreen, Colorado 80439.

9. Plaintiff John Robert Roderick is an individual who resides at 251 Beaver Brook Canyon Road, Evergreen, Colorado 80439.

10. Plaintiff Patrick Parnell is an individual who resides at 1143 Catalina, Laguna Beach, California 92651.

11. On information and belief, Defendant Eureka Entertainment LLC is a limited liability company organized under the laws of the State of California with a principal place of business at 3702 Eureka Drive, Studio City, California 91604.

12. *The Last Run* is distributed by Home Box Office, Inc., a corporation organized under the laws of the state of Delaware with a principal place of business at 1100 Avenue of the Americas, New York, New York.

FACTUAL BACKGROUND

13. Neu Productions produces character driven stories and imagery through commercials, branded content and television series. Neu Productions has served as production partner to many well-known brands including Discovery Channel, BBC Storyworks, AMC, Showtime, Fox Sports, Red Bull, Nike, Oakley and Beats by Dre.

14. Neu Productions is wholly owned by John Roderick (“Roderick”).

15. Patrick Parnell is a celebrity television host, producer and sports commentator.

16. Parnell and Roderick are long-time friends and have collaborated on numerous film projects over the years, including a television series of short feature films distributed by Outside Television known as *Outlook: Icons Revealed*.

17. One episode of *Outlook: Icons Revealed* created by Neu and Parnell featured Jake Burton Carpenter (Jake Burton), the legendary pioneer who propelled the sport of snowboarding into a global and cultural phenomenon. The program is called *Outlook: Icons Revealed Jake Burton Carpenter*. It aired for the first time in June 2017 and can still be viewed on Outside + and a variety of streaming platforms.

18. Neu Productions filmed some of the footage used in *Outlook, Icons Revealed Jake Burton Carpenter* during the 2017 U.S. Open in Vail Colorado. The footage includes portraits of Jake Burton and Shaun White. It also includes a recorded interview between celebrity host Pat Parnell and Jake Burton talking about Burton's relationship Shaun White.

19. *Outlook, Icons Revealed featuring Jake Burton Carpenter* contains some of the last known footage of and interviews with Jake Burton, who died on November 20, 2019 in Burlington, Vermont of complications from cancer.

20. Outside Television paid Roderick/Neu \$30,566.97 to direct, shoot and edit *Outlook: Icons Revealed Jake Burton Carpenter*. Parnell was paid separately (\$5,000) for hosting the episode. Roderick retained ownership of the copyrights in *Outlook: Icons Revealed Jake Burton Carpenter*.

21. On or about July 31, 2023, it came to John Roderick's attention that the Defendants had used 15-30 seconds of footage from *Outlook: Icons Revealed Jake Burton Carpenter* in *The Last Run*. The footage included an interview from Pat Parnell with Jake Burton, a portrait of Jake Burton and family, as well as Jake Burton and Shaun White hugging after Shawn's victory halfpipe run.

22. Neu Productions is in the business of licensing footage from its library for use in films, including documentaries like *The Last Run*.

23. The standard fee for worldwide, ten-year video on demand (VOD) license to use sports footage of this nature and quality is \$35,000 per minute with a one minute minimum as per the attached email communication with the Olympic Channel. Exhibit 2.

24. The licensing value of interviews with Jake Burton is more difficult to quantify but likely considerably higher.

25. On information and belief, Eureka sought and secured a license to use some footage for *The Last Run* from the Burton Corporation. Exhibit 3. Among other things, this demonstrates that Eureka knew it needed a license and undercuts any argument that Defendants' unauthorized use of the Neu Footage was "fair use" under Section 107 of the Copyright Act.

26. On information and belief, the Neu Footage (including Parnell's interview with Jake Burton) was unlawfully copied from *Outlook: Icons Revealed Jake Burton Carpenter* because it still bears the chyron overlay for the series.

27. On August 8, 2023, the undersigned sent a letter on behalf of Plaintiffs to Defendants demanding payment for the unauthorized use of the Neu Footage in *The Last Run*. Exhibit 4. At the time, Plaintiffs believed that 30-40 seconds of footage had been misappropriated. This has since been corrected. Exhibit 5.

28. The parties have exchanged several additional letters and emails but have been unable to reach a resolution.

COUNT I
INFRINGEMENT OF COPYRIGHTS

29. Plaintiffs Roderick and Neu incorporate by reference the allegations in each of the preceding paragraphs as if fully set forth in this paragraph.

30. Plaintiff Roderick is, and at all relevant times has been, the sole owner of the

exclusive rights under United States Copyright Act of the copyrighted video footage identified in Exhibit 1, which is the subject of a valid Certificate of Copyright Registration issued by the Register of Copyrights.

31. Among the exclusive rights granted to Roderick under the Copyright Act is the exclusive right to reproduce and license others to reproduce all or portions of the Neu Footage and use those reproductions in commercial movies and television programming, including documentaries.

32. Defendants, without the permission or consent of Roderick or his production company Neu Productions, made or caused to be made reproductions of all or significant portions of the Neu Footage and used them in *Shaun White*, *The Last Run*, which is now being distributed world-wide to 96.1 million subscribers of HBO's MAX streaming and cable television services.

33. Defendant's actions constitute infringement of Roderick's exclusive rights under the Copyright Act.

34. Roderick is informed and believes that the foregoing acts of infringement have been willful and intentional, with disregard and indifference to his rights.

33. As a result of Defendants' infringement of Roderick's copyrights and exclusive rights under copyright, Roderick and Neu are entitled to damages pursuant to 17 U.S.C. § 504 and attorneys' fees and costs pursuant to 17 U.S.C. § 505 and 28 U.S.C. §1927.

34. Defendants' conduct is causing and, unless enjoined by this Court, will continue to cause Roderick and Neu irreparable injury that cannot be fully compensated or measured in money. Roderick and Neu have no adequate remedy at law and are

entitled to injunctive relief pursuant to 17 U.S.C. §§ 502 and 503 prohibiting Defendants from continuing to infringing Roderick's copyrights and ordering Defendants to destroy all unlicensed portions of *The Last Run* made and used in violation of Neu's exclusive copyrights.

COUNT II
MISAPPROPRIATION OF RIGHT OF PUBLICITY

35. Plaintiff Patrick Parnell incorporates by reference the allegations in each of the preceding paragraphs as if fully set forth in this paragraph

36. California Civil Code 3344 provides a cause of action against one who "knowingly uses another's name, voice, signature, photograph or likeness" for the purpose of advertising or trade without prior consent.

38. The right of a person to control the use of his name, voice and image is also protected by California common law.

39. Defendant used Parnell's name, voice and image in *The Last Run* without his consent.

40. The unauthorized use of Parnell's name, voice and image was for the purpose of trade.

41. Defendants knowingly, willfully and intentionally used Parnell's name, voice and image in a way that is unlawful under the laws of California.

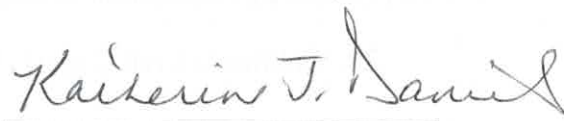
WHEREFORE, Plaintiffs prays for judgment against Defendant as follows:

1. For an injunction enjoining the Defendants from directly or indirectly infringing Plaintiff's rights in the Neu Footage except pursuant to a lawful license.
2. Damages for each infringement the Neu Footage pursuant to 17 U.S.C. § 504.

3. Damage for violation of Parnell's rights of publicity under California law.
4. Plaintiffs' costs in this action.
6. Plaintiffs' reasonable attorneys' fees.
7. Such other and further relief as the Court may deem just and proper.

Dated: North Salem, New York
March 6, 2024

KATHERINE DANIELS, LLC

A handwritten signature in cursive script, reading "Katherine J. Daniels", written in black ink.

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